



# **VIRGINIA PAROLE BOARD**

## **Commission on Parole Review**

**July 2015**



# Virginia Parole Board

The goal of the Parole Board is to release on parole, those eligible offenders deemed suitable for release and whose release will be compatible with the welfare of society and the offender.

# What the Courts Think

- **Swarthout v. Cooke, 562 U.S. 216, 131 S.Ct. 859 (2011)**
  - No constitutional right to be conditionally released before expiration of sentence
  - Minimal due process required in parole process
- **Burnette v. Fahey, 687 F.3d 171 (2012)**
  - Parole Board has broad discretion
    - In developing policies and procedures
    - In deciding its cases

# Definitions

## Parole Eligible (PE)

- Committed crimes prior to January 1, 1995

## Truth-in-Sentencing (TIS)

- Committed crimes after January 1, 1995

# Discretionary Parole

## ■ Offenders eligible for parole consideration:

- For the first time  $\frac{1}{4}$  or 12 years
- For the second time  $\frac{1}{3}$  or 13 years
- For the third time  $\frac{1}{2}$  or 14 years
- For fourth or subsequent time  $\frac{3}{4}$  or 15 years
- Life 15 years
- unless Capital Murder of Child less than 8 25 years
- Life x 2 or more 20 years
- unless Capital Murder 30 years

# Parole Ineligibility

- Offenders not eligible for parole consideration if convicted of:
  
- 3 SEPARATE OFFENSES OF
  - Murder
  - Rape or/and
  - Robbery by presenting of firearm or other deadly weapon
    - Where not part of a common act, transaction or scheme
  
    - Or

# Parole Ineligibility

- 3 separate felony offenses of manufacturing, selling, giving or distributing or possessing with intent to manufacture, sell, give or distribute a controlled substance.
  - Where not part of common act, transaction or scheme and
  - Who has been at liberty between each conviction
- Of the 287 “3X Losers” only four are ineligible due to drug distribution convictions.

# Percentage of PE/TIS population Serving Life Sentences

- Among the 4,348 PE offenders confined on April 30, 2015, 1,200 (**28%**) were serving one or more life sentence.
- Among the 33,336 TIS offenders confined on April 30, 2015, 1,024 (**3%**) were serving one or more life sentence.

# Number of PE/TIS Offenders Serving Higher Sentences (Excluding Life)

Among the 3,148 **PE** offenders not serving a life sentence confined on April 30, 2015:

- 1,169 (37%) were serving a sentence of at least 25 years but fewer than 50 years
- 932 (30%) were serving a sentence of at least 50 years but fewer than 100 years
- 191 (6%) were serving a sentence of at least 100 years

Among the 32,312 **TIS** offenders not serving a life sentence confined on April 30, 2015:

- 3,004 (9%) were serving a sentence of at least 25 years but fewer than 50 years
- 746 (2%) were serving a sentence of at least 50 years but fewer than 100 years
- 117 (<1%) were serving a sentence of at least 100 years

# Current PE Confined Population Who Have Already Served 20+ Years (as of 12/31/14)

Time Already Served	Number	% of Total
>=20 Years but <25 Years	1,423	46%
>=25 Years but <30 Years	781	26%
>=30 Years but <35 Years	488	16%
>=35 Years but <40 Years	244	8%
>=40 Years	126	4%
Average (mean) Time Already Served	27.2 years	
Median Time Already Served	25.5 years	

# Current PE Confined Population Who Have Already Served 20+ Years (as of 12/31/14)

Violent by §17.1-805		
Yes	2,941	96%
No	121	4%

# Current PE Confined Population Who Have Already Served 20+ Years (as of 12/31/14)

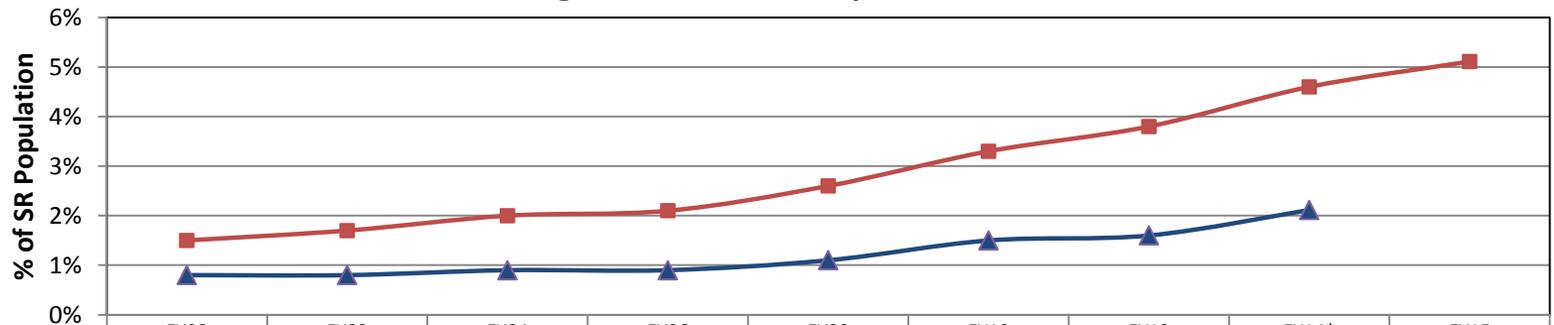
Current Most Serious Offense	Number	% of Total
Capital Murder	193	6%
First Degree Homicide	917	30%
Second Degree Homicide	30	1%
Manslaughter	10	0%
Abduction	563	18%
Rape/Sexual Assault	480	16%
Robbery	530	17%
Assault	139	5%
Weapons	2	0%
Arson	6	0%
Burglary/B&E	96	3%
Larceny/Fraud	30	1%
Conspiracy	1	0%
Drug Sales	43	1%
Drug Possession	16	1%
Not Yet Reported	6	0%
<b>Total</b>	<b>3,062</b>	<b>100%</b>

# Statistics on Crimes Committed by Geriatric Offenders

# State Responsible Offenders Age 60+ FY2000-FY2015\*

- SR Confined Offenders Age 60+ have more than tripled since FY2000 (from 460 to 1,929)
- SR New Court Commitments Age 60+ have more than tripled since FY2000 (from 74 to 263)
- Over 2% of the SR NCC and over 5% of the SR Confined Population are Age 60+

Offenders Age 60+ in the SR Populations



	FY00	FY02	FY04	FY06	FY08	FY10	FY12	FY14*	FY15
60+ SR Confined	460	589	719	775	1,008	1,232	1,405	1,726	1,929
■ % of SR Confined	1.5%	1.7%	2.0%	2.1%	2.6%	3.3%	3.8%	4.6%	5.1%
60+ SR NCC	74	90	101	118	150	182	187	263	
▲ % of SR NCC	0.8%	0.8%	0.9%	0.9%	1.1%	1.5%	1.6%	2.1%	

\*SR NCC data for FY2014 is preliminary as of June 30, 2015

SOURCE: VADOC Statistical Analysis & Forecast Unit, July 16, 2015

# Geriatric Release Eligibility of SR Confined Population As of June 30, 2015

- 3% of the SR Confined Population is currently eligible for Geriatric Release consideration
- Almost three-quarters (74%) of the SR Confined Population is expected to be released prior to becoming eligible for Geriatric Release consideration

	Currently Parole Eligible		Parole Eligible in the Future		NOT Parole Eligible (TIS)		Total	
	Cumulative #	% of Total SR	Cumulative #	% of Total SR	Cumulative #	% of Total SR	Cumulative #	% of Total SR
Through FY2015	560	1%	84	<1%	370	<1%	1,014	3%
FY2016	650	2%	107	<1%	492	1%	1,249	3%
FY2017	729	2%	126	<1%	616	2%	1,471	4%
FY2018	798	2%	155	<1%	734	2%	1,687	4%
FY2019	868	2%	185	<1%	889	2%	1,942	5%
FY2020	938	2%	217	<1%	1,167	3%	2,322	6%
After FY2020	822	2%	367	<1%	6,165	16%	7,354	19%
Expected Release Prior to GE Date	1,013	3%	735	2%	25,852	69%	27,600	73%
Not Eligible for GE Release	124	<1%	65	<1%	273	<1%	462	1%
<b>Total</b>	<b>2,897</b>	<b>8%</b>	<b>1,384</b>	<b>4%</b>	<b>33,457</b>	<b>89%</b>	<b>37,738</b>	<b>100%</b>

SOURCE: VADOC Statistical Analysis & Forecast Unit, July 16, 2015

NOTE: The numbers in the Cumulative # columns are running totals through the FY2020 row, meaning the newly eligible for that year are added to the number already eligible; as a result, the Total figures are arrived at by adding the last four rows below the red line in the table together (FY2020 + After FY2020 + Release Prior to GE + Not Eligible)

# FY2015 SR Confined Population

## Age at Sentencing by Age Groups

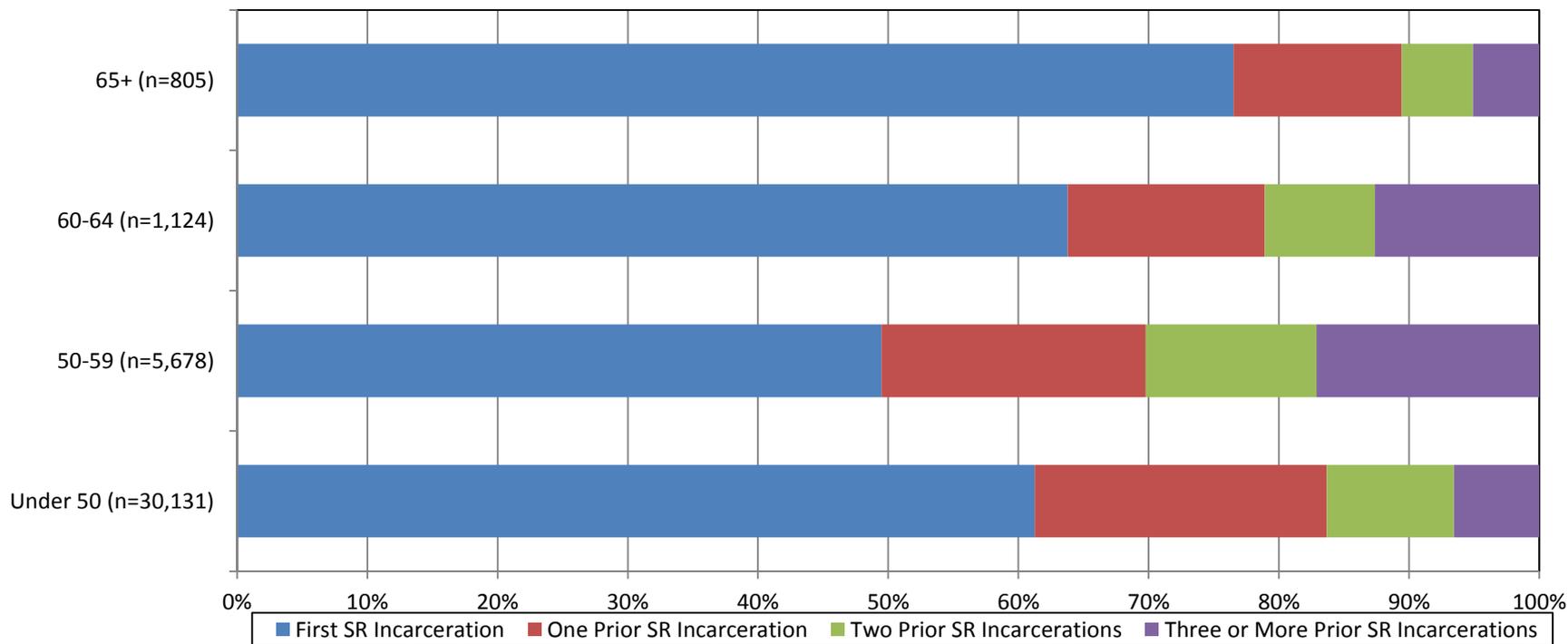
- Under 50 group: 85% sentenced between 18-39 (54% sentenced by age 29)
- 50-59 group: 68% sentenced between 40-59 (58% sentenced age 45+)
- 60-64 group: 56% sentenced age 50+ (23% sentenced 60+)
- 65+ group: 64% sentenced age 50+ (47% sentenced age 60+)

Age at Sentencing	Age at End of FY2015				Total
	Under 50	50 - 59	60 - 64	65+	
Under 18	522	50	3	-	575
18 – 24	9,873	491	96	31	10,491
25- 29	6,487	426	77	40	7,030
30 – 34	5,300	433	59	59	5,851
35 – 39	3,915	435	81	57	4,488
40 – 44	2,693	524	92	47	3,356
45 – 49	1,341	1,157	85	53	2,636
50 – 54	-	1,581	107	62	1,750
55 – 59	-	581	263	80	924
60 – 64	-	-	261	145	406
65 & Over	-	-	-	231	231
<b>Total</b>	<b>30,131</b>	<b>5,678</b>	<b>1,124</b>	<b>805</b>	<b>37,738</b>

# FY2015 SR Confined Population

## Prior SR Incarcerations by Age Group

- 77% of the 65+ group are serving their first SR incarceration
- 64% of the 60-64 group are serving their first SR incarceration
- 49% of the 50-59 group are serving their first SR incarceration
- 61% of the Under 50 group are serving their first SR incarceration



# Offenders Considered for Geriatric Release

## By Most Serious Offense

### CY2006 - CY2014

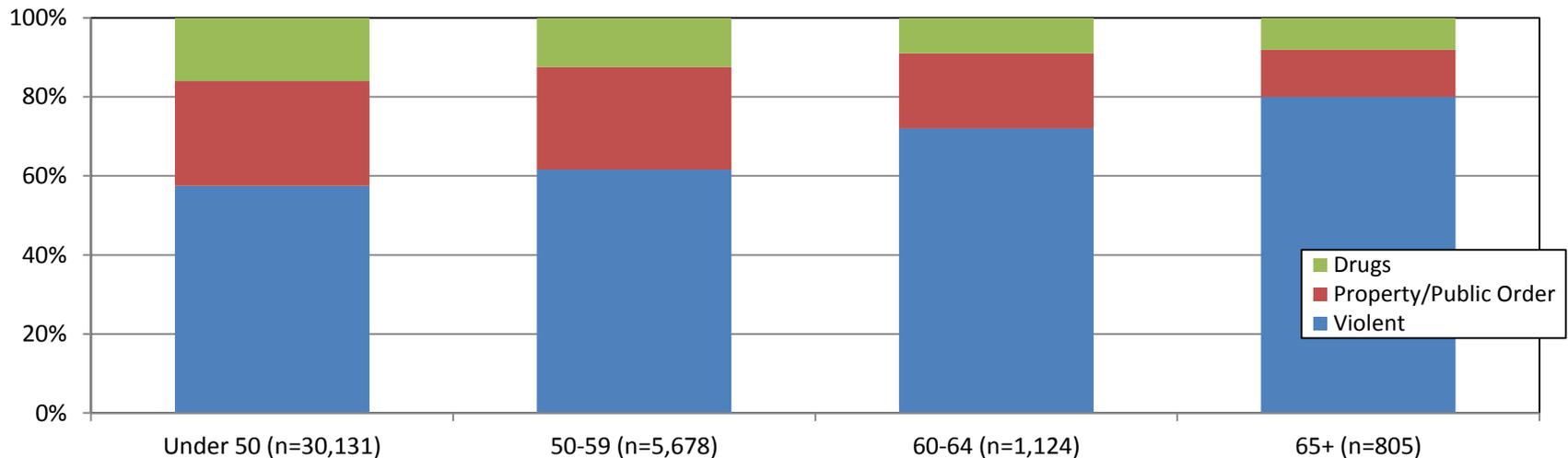
- Most offenders **considered** for Geriatric Release between CY2006 and CY2014 committed either Homicide or Rape/Sexual Assault

	CY2006		CY2008		CY2010		CY2012		CY2014	
Homicide	15	42%	28	47%	58	45%	63	36%	86	29%
Rape/Sexual Assault	10	28%	14	24%	37	29%	53	30%	63	21%
Abduction	1	3%	2	3%	2	2%	4	2%	5	2%
Robbery	1	3%	3	5%	9	7%	21	12%	43	15%
Assault	4	11%	9	15%	2	2%	10	6%	18	6%
Weapons	1	3%	0	0%	4	3%	1	<1%	3	1%
Burglary/B&E	0	0%	0	0%	2	2%	2	1%	9	3%
Larceny/Fraud	1	3%	1	2%	6	4%	6	3%	20	7%
Sex Offense	0	0%	1	2%	3	2%	4	2%	7	2%
DUI/Habitual Offender	0	0%	0	0%	0	0%	0	0%	7	2%
Drug Sales/Possession	3	8%	1	2%	6	4%	1	7%	20	7%
Other Property	0	0%	0	0%	0	0%	0	0%	1	<1%
Not Yet Reported**	0	0%	0	0%	0	0%	0	0%	13	4%
<b>Total</b>	<b>36</b>		<b>59</b>		<b>129</b>		<b>176</b>		<b>295</b>	

Source: Virginia Parole Board Geriatric Caseload Summaries

# FY2015 SR Confined Population Most Serious Offense\* by Age Groups

- 80% of the age 65+ inmates and 72% of inmates in the 60-64 age group are incarcerated for a violent crime; this compares to only 58% of the younger inmates
- The most common offense for older inmates:
  - Rape/Sexual Assault
    - 20% of the 60-64 age group
    - 31% of the 65+ age group
  - Murder
    - 22% of the 60-64 age group
    - 26% of the 65+ age group



\*Most Serious Offense (MSO) for an offender for his current term of SR incarceration; based on SAF Unit offense hierarchy used for forecast purposes; MSO differs from Violent by §17.1-805: 1) Violent by §17.1-805 looks at an offender's entire criminal history while MSO only looks at the offenses for an offender's current term of SR incarceration; and 2) Violent by §17.1-805 considers most burglary offenses to be Violent while MSO counts burglaries as a Property offense

SOURCE: VADOC Statistical Analysis & Forecast Unit, July 16, 2015

# Statistics on Crimes Committed when a Juvenile at Date of Offense

## Current Parole Eligible SR Confined Population who Committed Their Most Serious Offense as a Juvenile (as of 12/31/14)

<b>GERIATRIC ELIGIBILITY DATE</b>		
On/Before 12/31/14	5	2%
Remainder of FY2015	1	0%
FY2016	3	1%
FY2017	4	1%
FY2018	5	2%
FY2019	2	1%
FY2020	2	1%
FY2021	4	1%
After FY2021	107	32%
Expected Release Prior to Geriatric Eligibility Date	174	53%
Not Eligible for GE Release; At Least One Class 1 Felony	24	7%

# Current Parole Eligible SR Confined Population who Committed Their Most Serious Offense as a Juvenile (as of 12/31/14)

Gender	Number	% of Total
Male	328	99%
Female	3	1%
Total	331	

## Current Parole Eligible SR Confined Population who Committed Their Most Serious Offense as a Juvenile (as of 12/31/14)

Current DOC Crime Type		
Violent	314	95%
Property/Public Order	17	5%
Drugs	0	0%
Not Yet Reported	0	0%

# Current Parole Eligible SR Confined Population who Committed Their Most Serious Offense as a Juvenile (as of 12/31/14)

Current Most Serious Offense	Number	% of Total
Capital Murder	24	7%
First Degree Homicide	122	37%
Manslaughter	3	1%
Abduction	31	9%
Rape/Sexual Assault	32	10%
Robbery	77	23%
Assault	18	5%
Weapons	1	0%
Homicide-2 <sup>nd</sup>	6	2%
Arson	1	0%
Burglary/B&E	13	4%
Larceny/Fraud	3	1%
<b>Total</b>	<b>331</b>	

## Current Parole Eligible SR Confined Population who Committed Their Most Serious Offense as a Juvenile (as of 12/31/14)

Current Age (on 12/31/14)		
Under 30	42	13%
30-39	115	35%
40-49	118	36%
50-54	30	9%
55-59	21	6%
60-64	3	1%
65+	2	1%
Average (mean) Age	40.1	
Median Age	40.0	

# Current Parole Eligible SR Confined Population who Committed Their Most Serious Offense as a Juvenile (as of 12/31/14)

Current Expected Release Date		
Remainder of FY2015	15	5%
FY2016	24	7%
FY2017	22	7%
FY2018	21	6%
FY2019	6	2%
FY2020	16	5%
FY2021	12	4%
After FY2021	106	32%
Serving Life, Death or Three Time Loser Sentence	109	33%

## Current Parole Eligible SR Confined Population who Committed Their Most Serious Offense as a Juvenile (as of 12/31/14)

Time Already Served	Number	% of Total
Less Than 20 Years	132	40%
>=20 Years but <25 Years	88	27%
>=25 Years but <30 Years	43	13%
>=30 Years but <35 Years	38	11%
>=35 Years but <40 Years	16	5%
>=40 Years	14	4%
Average (mean) Time Already Served	21.3 years	
Median Time Already Served	21.3 years	

# SR Parole Violators (FY2010-FY2014)

Most Serious Offense	FY2010		FY2011		FY2012		FY2013		FY2014	
	No.	%								
Capital Murder	0	0%	0	0%	0	0%	0	0%	0	0%
First Degree Homicide	6	5%	4	3%	4	3%	8	8%	4	4%
Second Degree Homicide	3	2%	5	4%	2	2%	2	2%	1	1%
Manslaughter	1	<1%	1	<1%	0	0%	1	<1%	1	1%
Abduction	14	11%	9	6%	10	9%	9	9%	9	10%
Rape/Sexual Assault	15	12%	21	15%	25	22%	20	19%	24	27%
Robbery	40	31%	35	25%	30	26%	26	25%	20	22%
Assault	17	13%	22	16%	14	12%	14	13%	8	9%
Weapons	0	0%	0	0%	0	0%	0	0%	0	0%
Arson	1	<1%	0	0%	0	0%	1	<1%	0	0%
Burglary/B&E	12	9%	19	14%	15	13%	12	11%	10	11%
Larceny/Fraud	11	8%	15	11%	6	5%	10	10%	4	4%
Conspiracy	0	0%	0	0%	1	<1%	0	0%	0	0%
Sex Offense	1	<1%	1	<1%	0	0%	0	0%	0	0%
DUI	0	0%	0	0%	0	0%	0	0%	0	0%
Habitual Offender	0	0%	0	0%	0	0%	0	0%	0	0%
Other Property	1	<1%	0	0%	0	0%	0	0%	0	0%
Drug Sales	5	4%	5	4%	6	5%	2	2%	6	7%
Drug Possession	3	2%	3	2%	3	3%	0	0%	2	2%
Not Reported	0	0%	0	0%	0	0%	0	0%	0	0%
<b>Total</b>	<b>130</b>		<b>140</b>		<b>116</b>		<b>105</b>		<b>89</b>	
<b>Violent by §17.1-805</b>										
Yes	116	89%	113	81%	98	84%	80	76%	60	67%
No	14	11%	27	19%	18	16%	25	24%	29	33%
<b>Age Group</b>										
Under 25	1	<1%	0	0%	0	0%	0	0%	0	0%
25 - 34	16	12%	6	4%	2	2%	1	<1%	0	0%
35 - 44	59	45%	73	52%	52	45%	38	36%	27	30%
45 - 54	42	32%	44	31%	46	40%	47	45%	44	49%
55 - 64	10	8%	15	11%	16	14%	19	18%	16	18%
65+	2	2%	2	1%	0	0%	0	0%	2	2%
<b>Average Age</b>	<b>43.4</b>		<b>44.5</b>		<b>46.0</b>		<b>47.6</b>		<b>48.8</b>	
<b>Violation Type</b>										
New Crime	112	86%	120	86%	92	79%	80	76%	60	67%
Technical	18	14%	20	14%	24	21%	25	24%	29	33%
<b>Time Imposed (months)</b>										
Mean	96.9		110.3		103.8		106.3		129.3	
Median	76.4		72.9		80.2		79.5		86.9	